

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101

PREPARED BY: Christopher M. Gratz, Planner II

SUBJECT: Quasi Judicial Hearing: Variance, V 11-1-05 Ted & Laura Markovich, 1070 Cedar Creek Way/Generally located on the east side of Cedar Creek Way, 400' north of the intersection of Highland Springs Court and Cedar Creek Way.

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: V 11-1-05 Markovich, 1070 Cedar Creek Way (PRD 3.8)

REPORT IN BRIEF: The applicant has requested a variance from required 25' rear setback that was approved for the Shenandoah Section IV lots adjacent to the Florida Power and Light easement. Specifically, the request is to reduce the rear setback by 7.5' so that an addition may be constructed with a rear setback of 17.5'. The area for the addition is currently a patio slab and screened porch with a solid roof, and the owner wants to enclose the area for another bedroom. The justification for this variance is that this space is needed for another bedroom to accommodate a relative.

Screened patios with either a solid or screen roof construction are permitted to be placed 5' from a rear property line in the PRD, Planned Residential District. These accessory structures are permitted in the required rear setback because three (3) of the sides are open, forming an outdoor living environment.

The northern half of the home has been built with a 32' rear setback and 25' front setback, and the southern half with a 38' rear setback and 38' front setback. The owner could have placed the swimming pool on the northern half of the lot, and built an addition on the southern half of the lot without the need for a variance request. However, since the owner chose to construct a swimming pool with a screen enclosure on the southern half of the home, this area is no longer available for development, and the owner does not desire to construct an addition to the front of the home.

PREVIOUS ACTIONS: None

CONCURRENCES: At the February 8, 2006, Planning and Zoning Board meeting, Mr. Luis made a motion, seconded by Chair Bender, to approve contingent upon verification of approval by the Homeowners' Association. (Motion carried 4-1 with Mr. Stevens being opposed)

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to the Town Council for further consideration.

Attachment(s): Planning Report

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division
Staff Report and Recommendation



Applicant Information

Owner/Petitioner:

Name: Ted & Laura Markovich
Address: 1070 Cedar Creek Way
City: Davie, FL 33325
Phone: (954) 472-8535

Background Information

Date of Notification: February 1, 2006 **Number of Notifications:** 199

Application History: No deferrals have been requested.

Application Request: Variance **FROM:** The required 25' rear setback, that was approved for the Shenandoah Section IV lots adjacent to the Florida Power and Light easement; **TO:** reduce the rear setback by 7.5' so that an addition may be constructed with a rear setback of 17.5'.

Address/Location: 1070 Cedar Creek Way/Generally located on the east side of Cedar Creek Way, 400' north of the intersection of Highland Springs Court and Cedar Creek Way

Future Land Use

Plan Map Designation: Residential (3 DU/AC)

Zoning: PRD 3.8, Planned Residential District

Existing Use: 1,897 square foot single family dwelling

Proposed Use: 2,335 square foot single family dwelling

Net Parcel Size: 0.175 acres (7,620 square feet)

Surrounding Uses:

North: Single family dwelling
South: Single family dwelling
East: Florida Power & Light easement
West: Single family dwelling

Surrounding Future Land
Use Plan Map Designations:

Residential (3 DU/AC)
Residential (3 DU/AC)
Residential (3 DU/AC)
Residential (3 DU/AC)

Surrounding Zoning:

North, South, East, & West:

PRD 3.8, Planned Residential District

Zoning History

Plat: The plat, Shenandoah Section IV, was approved on February 18, 1987, and was recorded in the official records of Broward County on July 9, 1987.

Site Plan: The site plan, SP 2-4-88 Shenandoah Section IV, was approved on March 2, 1988.

Application Details

The applicant has requested a variance from required 25' rear setback that was approved for the Shenandoah Section IV lots adjacent to the Florida Power and Light easement. Specifically, the request is to reduce the rear setback by 7.5' so that an addition may be constructed with a rear setback of 17.5'. The area for the addition is currently a patio slab and screened porch with a solid roof, and the owner wants to enclose the area for another bedroom.

Applicable Codes and Ordinances

§12-33 (A) (6) Accessory uses and structures.

In residential districts, the location of screen enclosed patios of either solid or screen roof construction shall be subject to the following regulations:

- (a) In all residential districts, screen enclosed patios may be placed in a required rear yard subject to the limitations below, but shall not be placed in a required front, side, or street side yard;
- (b) In all residential districts, except the PRD and PURD districts, screen enclosed patios may extend into the required rear yard by no more than fifty (50) percent of the required rear setback, but shall maintain a minimum ten (10) foot separation from the structure to the rear property line;
- (c) In the PRD and PURD districts, screen enclosed patios shall maintain a minimum five (5) foot separation from the structure to the rear property line and shall maintain the required side setback as established by the conceptual master land use plan for the development from the structure to the side property line.

§12-503, Definitions.

Hardship, necessary. Arduous restrictions upon the uses of a particular property which promote the objectives of these regulations; providing, that such restrictions apply to all land within the same district (e.g., if commercial uses are prohibited in a district, this results in a hardship to the property owners, but it is a hardship which is necessary to the purpose of the chapter in the first place).

Hardship, unnecessary. Arduous restrictions upon the uses of a particular property which are unique and distinct from that of adjoining property owners. Granting of relief from an unnecessary hardship should not violate sound zoning principles, including considerations that adjacent properties will not be substantially reduced in value, it is not granting special privilege not to be enjoyed by others in similar circumstances, and the public interest is maintained including following the spirit of this chapter and the Davie Land Use Plan. Invalid and nonjustifiable bases for pleading unnecessary hardships include:

- (1) Loss of the "best" use of the land and business competition.
 - (2) Self-created hardships by the applicant's own acts.
 - (3) Neighboring violations and nonconformities.
 - (4) Claims of inability to sell the property.
 - (5) General restrictions of the chapter.
-

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 100.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3:* Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Staff Analysis

The request is to enclose an existing 14' x 31.3' (438 square feet) screened patio with a solid roof. To allow the screened patio to be enclosed, a variance to reduce the required 25' rear setback by 7.5' has been made. The justification for this variance is that this space is needed for another bedroom to accommodate a relative.

Screened patios with either a solid or screen roof construction are permitted to be placed 5' from a rear property line in the PRD, Planned Residential District. These accessory structures are permitted in the required rear setback because three (3) of the sides are open, forming an outdoor living environment.

The northern half of the home has been built with a 32' rear setback and 25' front setback, and the southern half with a 38' rear setback and 38' front setback. The owner could have placed the swimming pool on the northern half of the lot, and built an addition on the southern half of the lot without the need for a variance request. However, since the owner chose to construct a swimming pool with a screen enclosure on the southern half of the home, this area is no longer available for development, and the owner does not desire to construct an addition to the front of the home.

Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

- (a) There are no special circumstances or conditions applying to the land or building for which the variance is sought;

The parcel and existing home can support an addition that does not require a variance. The actions and desires of the owner have caused the need for a reduction in the required 25' rear setback.

which circumstances or conditions are not peculiar to such land or building and do apply generally to land or buildings in the same district;

The required 25' rear setback applies equally to all properties within this portion of the subdivision.

and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought;

The parcel is being reasonably used now without a variance, and an addition can be constructed in the required setbacks.

and that alleged hardship is self-created by any person having an interest in the property.

The need for a variance is created by the owner's previous actions and current desires. The owner could have placed the swimming pool on the northern half of the lot, and built the addition on the southern half of the lot without the need for a variance request.

- (b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

This parcel is being reasonably be used now; however the request is the minimum needed to allow an addition the owner desires.

- (c) Granting of the requested variances will not be in harmony with the general purpose and intent of this chapter and may be injurious to the neighborhood or otherwise detrimental to the public welfare.

Granting of the request goes against the intent of the Code because it gives the owner the permission to increase the size of the structure on this parcel beyond the size that any of the owners in this portion of the subdivision are permitted. According to the Code, the owner's basis for a variance is an invalid and non-justifiable unnecessary hardship because the need for it is a direct result of the owner's actions. If the owner had considered the required setbacks and the possibility of a room addition before placing the swimming pool on the southern half of the property a variance request would not have been made. Allowing the rear setback to be reduced to enclose the existing screened patio may be detrimental to the adjacent properties. The existing screen room is open on three (3) sides, and by allowing it to be enclosed the openness of the parcel will be reduced.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the February 8, 2006, Planning and Zoning Board meeting, Mr. Luis made a motion, seconded by Chair Bender, to approve contingent upon verification of approval by the Homeowners' Association. (Motion carried 4-1 with Mr. Stevens being opposed)

Town Council Action

Exhibits

1. Justification
2. Shenandoah Design Review Board Approval
3. Site Plan
4. Survey
5. Future Land Use Plan Map
6. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

11/2/05

To: Town of Davie
Planning and Zoning Division

From: Ted & Laura Markovich
1070 Cedar Creek Way
Davie, FL 33325
954-472-8535

Re: Variance Application

The request is to be permitted to place a permanent CBS structure and roof as a replacement to an existing screened and roofed 8" thick concrete slab in the rear of our home. The approximate size of this slab is 14' by 28'. The need to permanently enclose this existing porch foot print is that we need to move my 74 year Mother in with us and we need a bedroom for her. My Father died in the spring and my Mother is not able to live alone and moving her in with us is the best option for my family. Without being able to add this additional bedroom would cause significant emotional and financial stresses on my family since we can not afford to place her in an assisted living facility and we need to provide for her well being.

We were informed by the Town that the set back in this section of our development is 25' from the property line which is the existing block rear house wall. The existing roofed porch extends out 12' from the house's roof. We do not plan to do anything but CBS bloc enclose the existing foot print of this back porch. The roof structure will depend upon the design suggestion of our architect and what is approved by the Town of Davie when we submit our building plans. Our plan is to make this enclosure as transparent to the original design of the house as possible.

We have enclosed photos of this porch area and the property immediately adjacent to this area. On the north side property line there is an existing privacy fence that shields this area from that neighbor. A block structure in this location would provide them with more privacy than they have now with our screened porch. From this area to the neighbor on the south is an existing pool and screen enclosure that shields them from this area. Directly east of this area is an FPL easement with the closest neighbor to the east being over 225' away. The view in from the easement is also shielded by a hedge row and three 7' tall and 7' round trees. The pictures we have enclosed show these various views. Additionally the FPL infrastructure is about 190' feet from our property line and their existing location is not in line with our property. Even if FPL would need to add a second set of towers in the future through this easement the variance we are requesting would not impact it.

Variance V11-1-05

SHENANDOAH DRB APPROVAL REQUEST(TWO) 2 COMPLETE SIGNED ORIGINALS AND A SELF ADDRESSED STAMPED ENVELOPE REQUIRED PRIOR TO PROCESSINGTO: DESIGN REVIEW BOARD OF SHENANDOAH HOMEOWNERS ASSOCIATION
2751 EXECUTIVE PARK DRIVE, SUITE 103, WESTON, FL 33331FROM: OWNERS NAME: Teddy and Laura Markovich DATE SUBMITTED: 1-31-06STREET ADDRESS: 1070 Cedar Creek wayDAY PHONE (954) 472-8535 EVENING PHONE ()BLOCK #: 25 LOT #: 11 ESTIMATED COMPLETION DATE: 6/06**** DESIGN REVIEW BOARD MUST BE NOTIFIED IN WRITING WHEN WORK HAS BEEN COMPLETED ****APPROVAL IS HEREBY REQUESTED TO MAKE THE FOLLOWING MODIFICATION, ALTERATION, OR AS DESCRIBED AND DEPICTED BELOW, OR ON ADDITIONAL ATTACHED PAGES AS NECESSARY. PLEASE INCLUDE ALL DETAILS OF **DIMENSIONS, MATERIALS TO BE USED, COLORS, SAMPLES AND LOCATION ON SURVEY & OTHER PERTINENT DATA. TWO COMPLETE SETS OF PLANS AND SPECIFICATIONS MUST BE SUBMITTED PRIOR TO PROCESSING.**FENCE: _____ FT HIGH SHADOW BOX (PAINTED SHENANDOAH STAIN INSIDE & OUT) FINISHED SIDE OUT
OTHER (SPECIFY MATERIAL & COLOR): _____**NOTE: LOCATION AND HEIGHT OF FENCING MUST BE SHOWN ON SURVEY.**

PAINTING: (ORIGINAL SAMPLES MUST BE INCLUDED AS SELECTED FROM DRB COLOR CHART).

BASE COLOR

ATTACH SAMPLES
HERE

COLOR # _____

OVERHANG TRIM COLOR

ATTACH SAMPLES
HERE

COLOR # _____

GARAGE DOOR

ATTACH SAMPLES
HERE

COLOR # _____

FRONT DOOR & SHUTTERS

ATTACH SAMPLES
HERE

COLOR # _____

LANDSCAPING: SHOW ON SURVEY LOCATION & TYPE OF PLANTS AND TREES TO BE PLANTED OR REMOVED (FOR MAJOR LANDSCAPING, A LANDSCAPING PLAN MUST BE SUBMITTED) NOTE: ALL REMOVED TREES MUST BE MITIGATED 1 TO 1.

PATIO: SHOW LOCATIONS ON SURVEY & TYPE OF MATERIALS TO BE USED.

SCREEN ENCLOSURE: SHOW LOCATION ON SURVEY AND ROOF DESIGN AND SPECIFY BRONZE OR WHITE STRUCTURE, AND SCREEN COLOR.

SHED: SHOW DIMENSIONS (INCLUDING OVERALL HEIGHT) & SHOW LOCATION ON SURVEY.

SHUTTERS: SHOW LOCATION & TYPE ON DIAGRAM. (MANUFACTURERS DATA REQUIRED)

DRIVEWAY: SHOW EXISTING & PROPOSED MATERIALS & COLOR (PROVIDE SAMPLES & PHOTO OF HOME)

ROOF: SHOW EXISTING & PROPOSED MATERIALS & COLOR (PROVIDE SAMPLES & PHOTO OF HOME)

OTHER MODIFICATIONS: EXPLAIN BELOW & SHOW ON A SURVEY (ATTACH ADDITIONAL SHEETS IF NEEDED)

enclosed existing rear screened and roofed porch with a room matching existing house. We are not looking to enlarge existing foot print of the house.Laura Markovich
SIGNATURE OF HOMEOWNER1 / 31 / 06
DATETeddy J Markovich

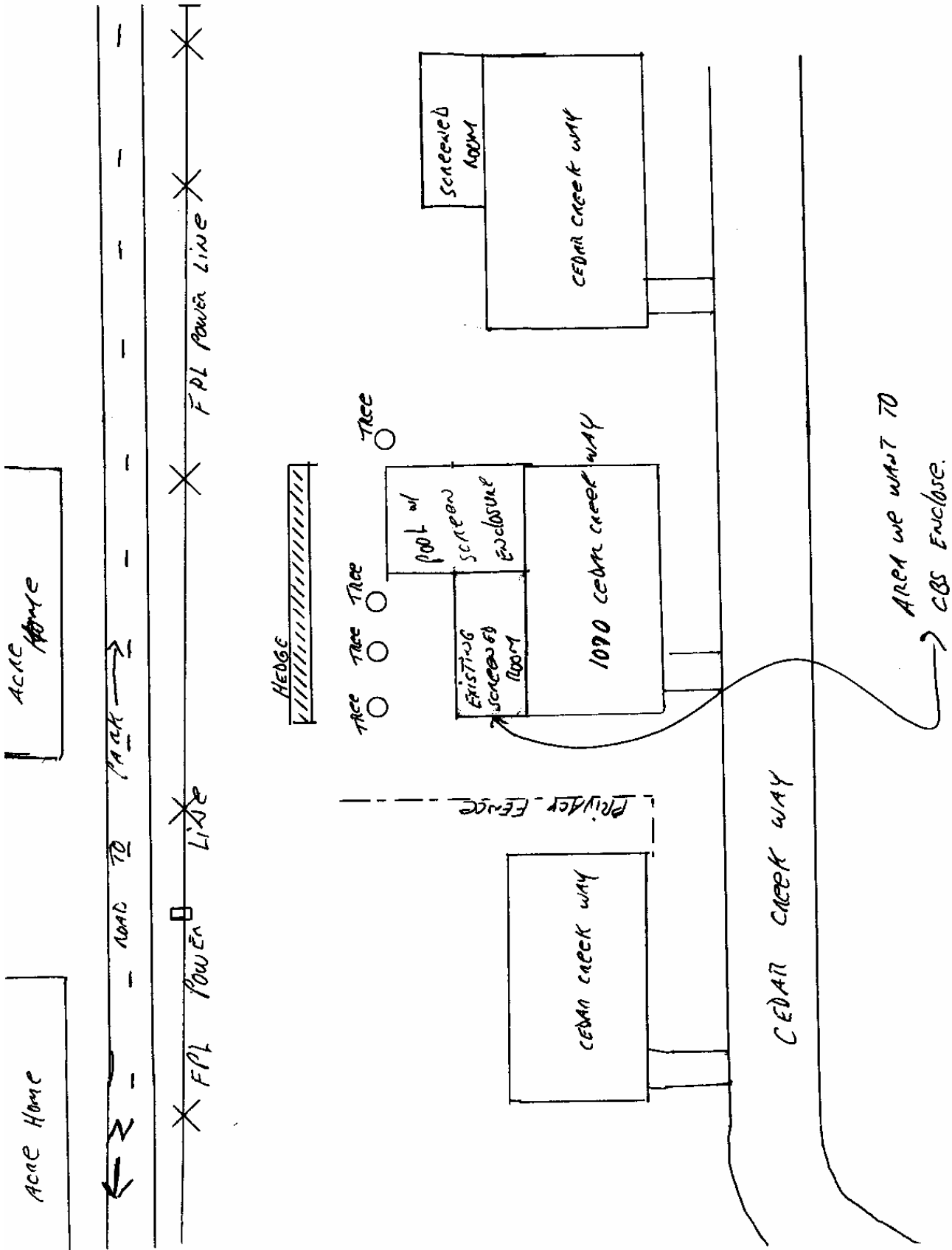
FOR BOARD USE ONLY

☒ APPROVED ☐ DISAPPROVEDBY: [Signature]2 / 6 / 06
DATE

COMMENTS: _____

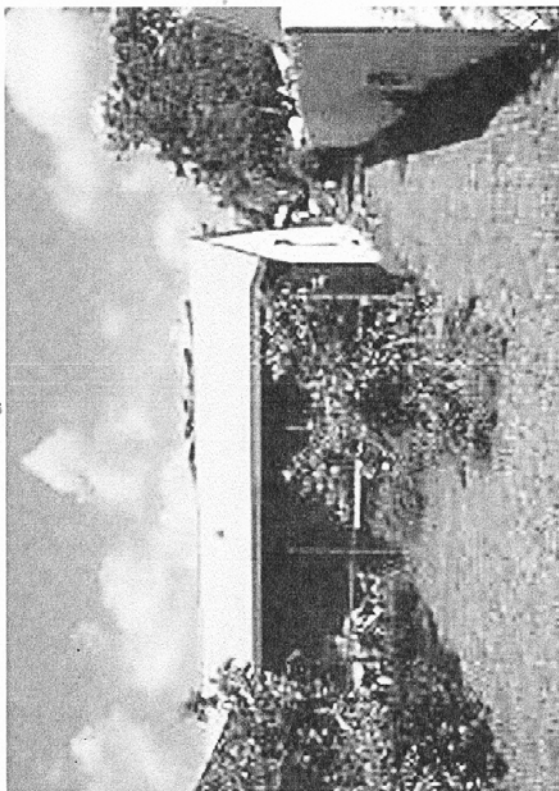
NOTE: THIS APPROVAL SHALL BECOME NULL & VOID IF WORK HAS NOT STARTED WITHIN NINETY (90) DAYS.

Revised 1/31/06



ARKOVICH, 1070 CEDAR CREEK WAY, DAVIE, FL 33325

END OF PRIVACY FENCE



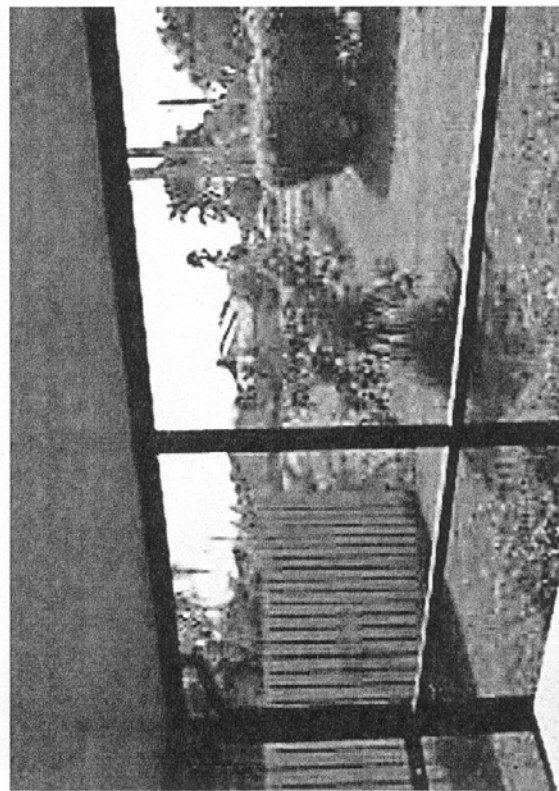
LOOKING OUT FROM PORCH TOWARD POOL ON SOUTH
EASEMENT IN THE BACK



EASEMENT, TREES & HEDGE

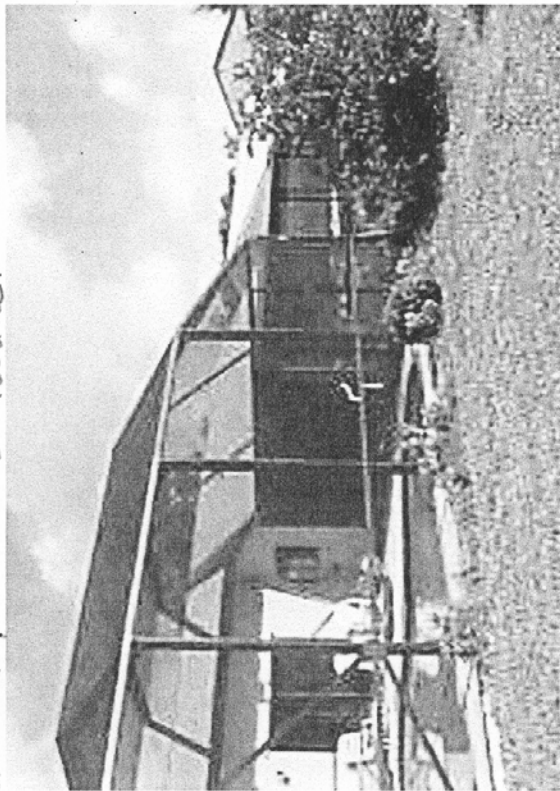


LOOKING OUT FROM PORCH TOWARD PRIVACY
FENCE ON NORTH EASEMENT IN THE BACK

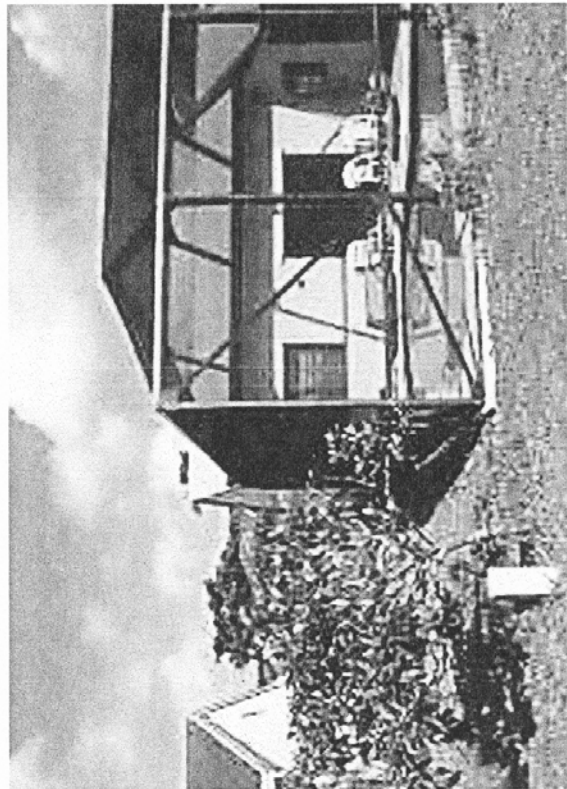


MARKOVICH, 1070 CENTAR CREEK WAY, DAVIE, FL 33325

of Pool's Screen Enclosure.



LOOKING DIRECTLY AT PORCH FROM HEDGE
THRU 2 OF THE TREES.



SOUTH PROPERTY LINE

BOUNDARY SURVEY

FLOOD ZONE: AH & D - COMMUNITY NUMBER: AH & D - FIRM INDEX NUMBER: 12011C00195F

TEDDY MARKOVICH AND LAURA MARKOVICH

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 | 56 | 57 | 58 | 59 | 60 | 61 | 62 | 63 | 64 | 65 | 66 | 67 | 68 | 69 | 70 | 71 | 72 | 73 | 74 | 75 | 76 | 77 | 78 | 79 | 80 | 81 | 82 | 83 | 84 | 85 | 86 | 87 | 88 | 89 | 90 | 91 | 92 | 93 | 94 | 95 | 96 | 97 | 98 | 99 |
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CONCRETE

OVERHANG(OH) OR ROOF

CENTERLINE

PROPERTY

WATER

SEWER

CABLE

ELECTRIC

HANDICAP

PLANTER

COMMUNICATIONS BOX

CATCH BASIN (CB)

SEWER MANHOLE

UTILITY POLE (UP)

LIGHT POLE (LP)

WATER METER (WM)

UTILITY ANCHOR

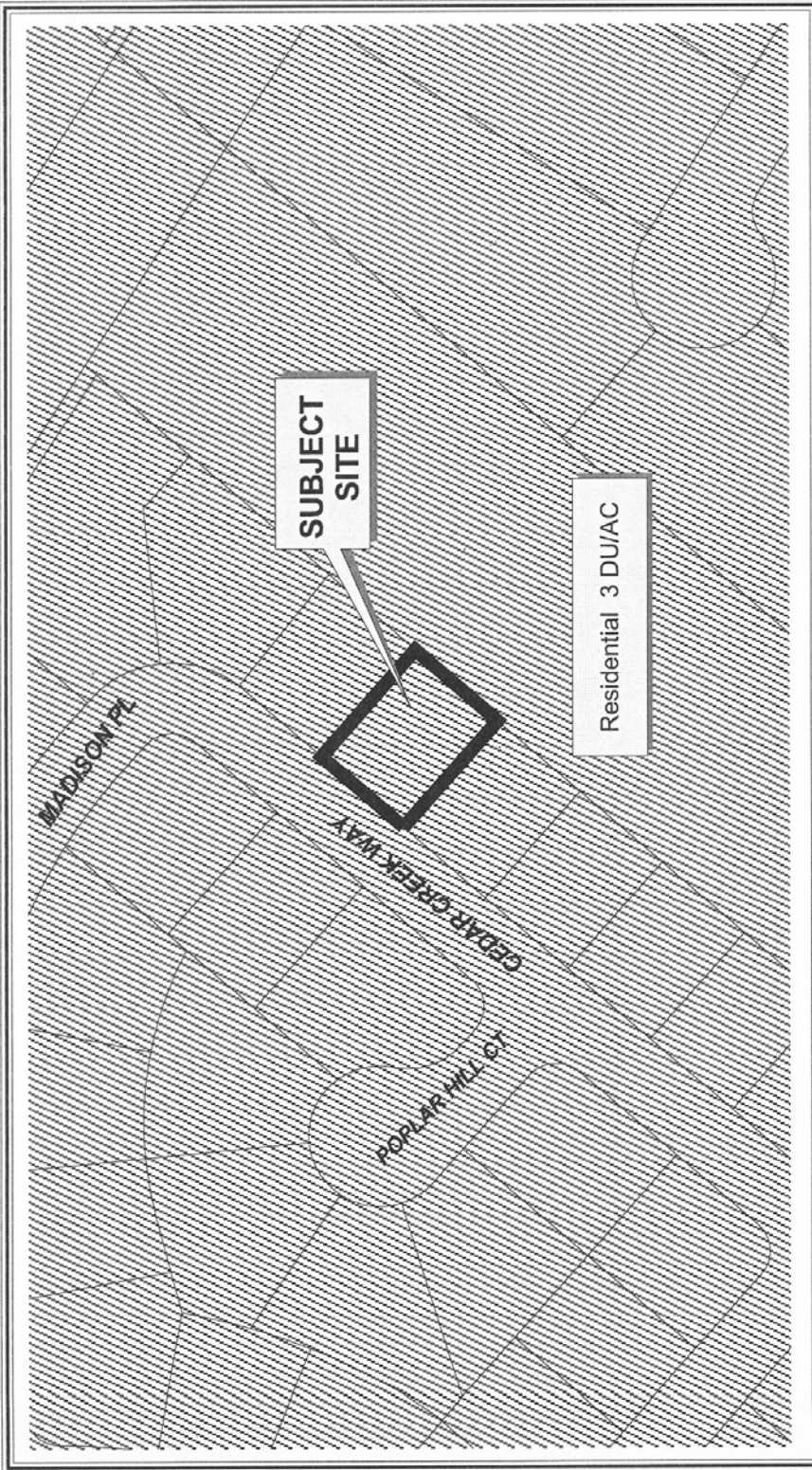
FIRE HYDRANT (FH)

ELEVATION

NOT A VALID SURVEY! THE SIGNATURE OF THE SURVEYOR IS REQUIRED FOR ALL ORIGINAL SURVEY PLANS.

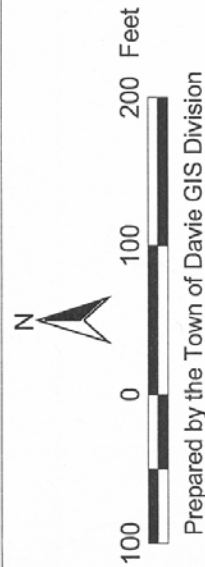
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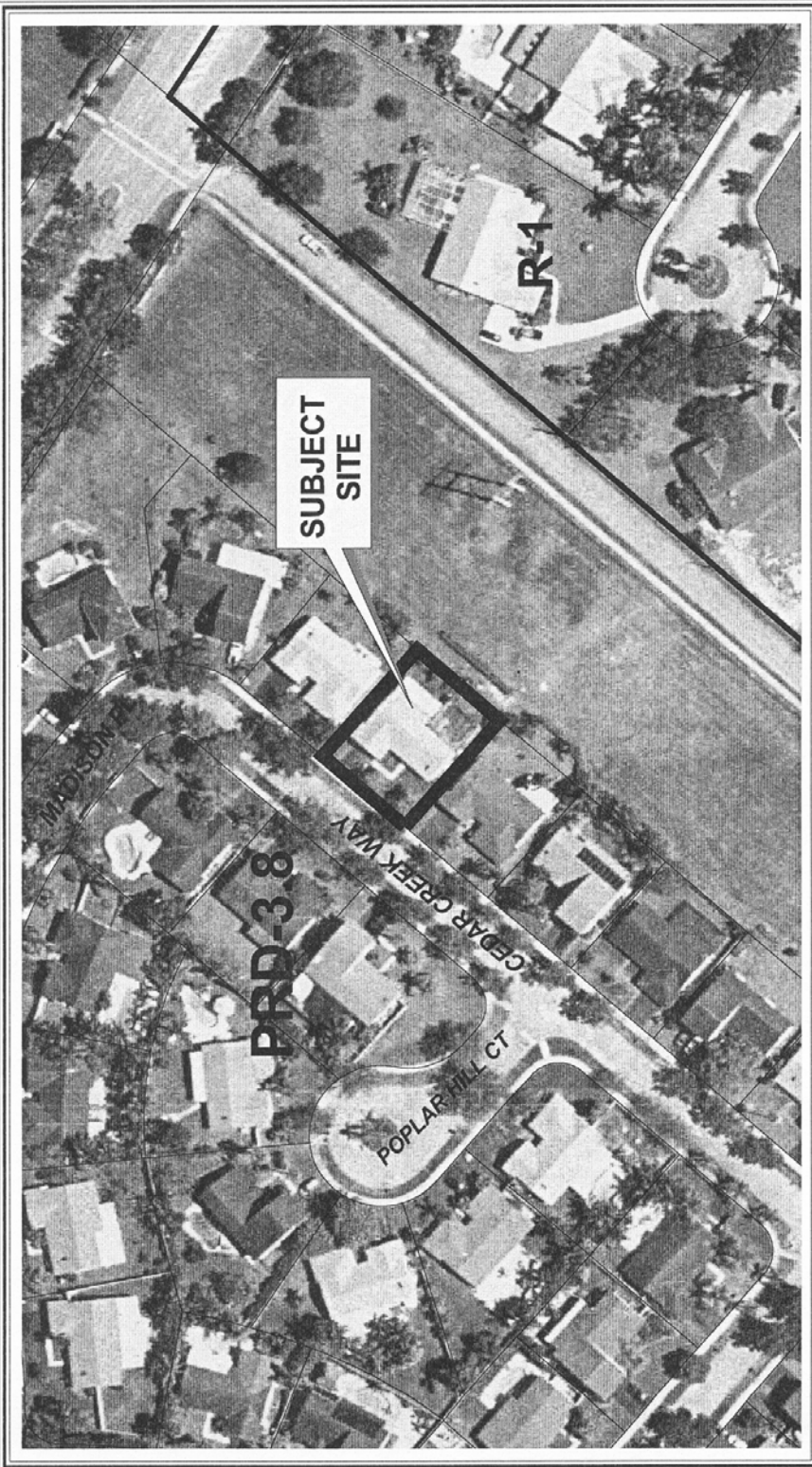
LOUIE P. JOHNSTON
PROFESSIONAL SURVEYOR & MAPPER No. 2173
STATE OF FLORIDA



VARIANCE
V 11-1-06
Future Land Use Map

Prepared By: ILD
 Date Prepared: 1/23/06





Date Flown:
12/31/04



100 0 100 200 Feet

Prepared by the Town of Davie GIS Division



VARIANCE **V 11-1-05** **Zoning and Aerial Map**

Prepared By: ILD
Date Prepared: 1/23/05

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